



UNITED STATES PATENT AND TRADEMARK OFFICE

52

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,674	02/07/2001	Kiichi Ueyanagi	108551	3351

25944 7590 08/18/2004

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
----------	--------------

2653

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/777,674

Applicant(s)

UEYANAGI, KIICHI

Examiner

Aristotelis M Psitos

Art Unit

2653

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 8.

Claim(s) objected to: _____.

Claim(s) rejected: 1,2,5-7,9-11,66 and 67.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Aristotelis M Psitos
Primary Examiner
Art Unit: 2653

Continuation of 2. NOTE: With respect to applicants' arguments that the amendment were not previously presented since it is responsive to the examiner's position taken in the FR., this amendment after Final attempts to introduce the limitations of claim 67 (introduce into the prosecution on 3/22/04. Applicant has had ample opportunity to present such amendments during the prosecution. Also, due to the dependent claims that originally did not require the newly introduced limitation with respect to the width and length, the prior positions taken by the examiner would by necessity radically change and require more than a cursory review of all position(s) taken thereto. Under present USPTO practice, the examiner cannot rewrite rejections at the present TIME juncture. Hence the amendment by introducing limitations of now canceled claim 67 into independent claim 1, alters the scope of the independent claims, which then alters the scope of the previously examined dependent claims (2,5--7,9-11,& 66). If applicants' are desirous of such scope of protection for the independent claim, then the examiner STRONGLY RECOMMENDS THE FILING OF A RCE.

Continuation of note 5. With respect to the arguments presented, because the amendment has not been entered, they are still considered as focusing upon the dependent claim 67. Applicant's arguments have been considered, but the rejection of claims 1/67 are maintained. The examiner concludes that the disclosure of Yamazaki et al does depict an optical disc having tracks, whose widths are selected to be .5 microns, see col. 2 lines 19-21. As proposed in the FR, one of ordinary skill in the art would note such a track width, and hence modify the writing gap appropriately. Since reduction in size increases the amount of information contained on a record medium, motivation to do so is considered present.